

REMARKS

In the restriction requirement dated September 8, 2005, the Examiner requested restriction under 35 U.S.C. §121 to one of the following Groups:

- Group I.** Claims 1 through 9, drawn to an apparatus with cylinder with openings, multi-port connector, pressure reading means, valve, pressure relief, plugging means attached to opening, classified in class 73, subclass 40;
- Group II.** Claims 10 through 19, drawn to a method of measuring gas generation potential including charging an apparatus, sealing apparatus, placing in temperature controlled bath, recording pressure data, analyzing pressure data to determine pressure changes, classified in class 73, subclass 19.01;

Applicants respectfully traverse the restriction requirement. However, to be fully responsive to the restriction requirement, Applicants elect, with traverse, the subject matter of Group I, claims 1-9, drawn to an apparatus.

The Office alleges that inventions I and II are distinct because they are related as product and process of use. The Office further alleges that the product as claimed could be made by a materially different process. See page 2 of Office Action dated September 8, 2005 (Office Action).

Applicants respectfully submit that the restriction requirement is improper because there would be no "serious burden" on the Examiner if all the claims were to be examined together. This serious burden is one criteria for a restriction requirement. M.P.E.P. §803.

Claims 10-19, incorporate the limitations of the apparatus of Claim 1, and should be allowable over the prior art for the same reasons that Claim 1 is allowable over the prior art. Because no further search of the art is necessary to evaluate the patentability of Claims 10-19, there is not serious burden on the Examiner to require restriction.

If the Examiner maintains the restriction requirement, Applicants respectfully direct the Examiner's attention to M.P.E.P. § 821.04, the relevant portion of which reads as follows:

If applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Accordingly, Applicants request that Claims 10-19 be rejoined with Claims 1-9 when Claims 1-9 are found to be allowable.

If a telephonic communication with the Applicants' representative will advance the prosecution of the instant application, please telephone the representative indicated below. Applicants believe no additional fees are due but the Commissioner is authorized to charge any fees required in connection with this response to Merck Deposit Account No. 13-2755.

Respectfully submitted,

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